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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/009,511 | 04/29/2002 | Phillip Mackie | 2625-1-002 | 4998 |

7590

10/17/2003

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| EXAMINER |
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NAKARANI, DHIRAJLAL S

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| ART UNIT | PAPER NUMBER |
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1773

12

DATE MAILED: 10/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-12

Office Action Summary

Application No.

10/009,511

Applicant(s)

MACKIE ET AL.

Examiner

D. S. Nakarani

Art Unit

1773

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10. 6) ☐ Other: _____

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 13-20 and 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Feder (US Patent 5,140,061) for the reasons of record set forth in paragraph 4 of the Office Action mailed April 16, 2003 (Paper No. 9).
3. Claims 13-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feder (US Patent 5,140,061) in view of Feder et al (U.S. Patent 5,721,026) for the reasons of record set forth in paragraph 5 of the Office Action mailed April 16, 2003 (Paper No. 9).
4. Receipt of Information Disclosure Statement filed May 22, 2003 is acknowledged and has been made of record.
5. Applicant's arguments filed July 17, 2003 have been fully considered but they are not persuasive.

In reference to rejection of claims 13-20 and 22-24 under 35 USC 102(b) as being anticipated by Feder (US Patent 5,140,061), applicants mainly argue that the copolymers of the present invention comprises two separate components, a first component called the flexible component, and a second component that is a retentive component capable of binding with or otherwise retaining flavor-active or odor active compounds. In contrast Feder does not disclose

Art Unit: 1773

such as a flavor or odor retentive compound comprised of two-component cross-linked copolymer, as does the invention. Feder teaches elastomeric compounds, produced by cross-linking aqueous silicone dispersions that have been chosen specifically to prevent liquid from running between the neck of the bottle and the stopper. Such a cross-linked silicone product corresponds to the flexible component of Applicants' invention. Feder contains no disclosure of a retentive component as in the invention for binding or otherwise retaining the flavor-active or odor active compounds.

These arguments are unpersuasive because the invention as claimed requires copolymer having stated two components. However the copolymer recited in claim 20 does not show two separate components. Furthermore applicants have not shown how claimed siloxane copolymer differs from Feder's cross-linked polysiloxane which is also a copolymer made of two components namely component (A) and component (B) (column 3, lines 3-30). The invention as claimed does not specifically separately identify claimed flexible component and claimed flavor-active or odor active component.

In reference to rejection of claims 13-24 under 35 USC § 103(a) as being unpatentable over Feder (U. S. Patent 5,140,061) in view of Feder et al (US Patent 5,721,026), applicants mainly argue that neither Feder '061 nor Feder et al '026 disclose compounds comprising two components, a flexible component and a retentive components as does the invention. The compounds of both Feder patents are cross-linked aqueous silicone dispersions, which correspond only to the flexible component of the invention.

These arguments are unpersuasive because Feder et al '026 teach addition of polyvinyl acetate to the coating composition of Feder '061 for lowering volume shrinkage and lowering

Art Unit: 1773

modulus. Feder et al does not teach cross-linking polyvinyl acetate. Therefore the coating compositions of Feder et al '026 have at least two polymer components. Furthermore the invention as claimed by claim 21 requires only polyvinylacetate copolymer. Applicants have not shown which part of polyvinyl acetate copolymer is a flexible component and which part of polyvinyl acetate copolymer is a retentive component. The invention as claimed is an open language and inclusive of additional components. Applicants are requested to point out or identify a flexible component and a retentive component in each claimed copolymer in claim 20.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner D. S. Nakarani whose telephone number is (703) 308-2413. The examiner can normally be reached on Tuesday-Friday from 7 a.m. to 5:30 p.m..

Art Unit: 1773

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Paul J. Thibodeau can be reached on (703) 308-2367. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 305-7115 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

D.S. Nakarani/dh
October 14, 2003.


D. S. NAKARANI
PRIMARY EXAMINER